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c 72 The Planning Amendment Act, 1970

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CHAPTER 72

An Act to amend The Planning Act

*Assented to June 26th, 1970
Session Prorogued November 13th, 1970*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 26 of *The Planning Act*, as re-enacted by sub-section 1 of section 1 of *The Planning Amendment Act, 1960-61* and amended by section 6 of *The Planning Amendment Act, 1962-63*, section 2 of *The Planning Amendment Act, 1966*, section 2 of *The Planning Amendment Act, 1968* and section 3 of *The Planning Amendment Act, 1968-69*, is repealed and the following substituted therefor:

R.S.O. 1960,
c. 296, s. 28
(1960-61,
c. 76, s. 1,
subs. 1),
re-enacted

26.—(1) In this section, “consent” means,

Interpre-
tation

(a) in the case of land situate in a municipality that forms part of a county for municipal purposes or situate in a municipality that is within a metropolitan, regional or district municipality,

(i) a consent given by the committee of adjustment of such municipality under subsection 2a of section 32b, if such committee was constituted prior to the 15th day of June, 1970, or by such committee constituted on or after the 15th day of June, 1970, if the municipality has an official plan approved by the Minister, or

(ii) where there is no committee of adjustment referred to in subclause i, a consent given by the land division committee constituted under section 26a, or

(iii)

- (iii) where there is no committee of adjustment referred to in subclause i, or no land division committee referred to in subclause ii, a consent given by the Minister;
- (b) in the case of land situate in a municipality that does not form part of a county for municipal purposes or situate in a municipality that is not within a metropolitan, regional or district municipality, or situate in a municipality in a territorial district,
 - (i) a consent given by the committee of adjustment of such municipality under subsection 2a of section 32b, if such committee was constituted prior to the 15th day of June, 1970, or by such committee constituted on or after the 15th day of June, 1970, if the municipality has an official plan approved by the Minister, or
 - (ii) where there is no committee of adjustment referred to in subclause i, a consent given by the Minister; or
- (c) in the case of land situate in territory without municipal organization, a consent given by the Minister.

Subdivision
control

- (2) No person shall convey land by way of a deed or transfer, or grant, assign or exercise a power of appointment with respect to land, or mortgage or charge land, or enter into an agreement of sale and purchase of land or enter into any agreement that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more unless,
 - (a) the land is described in accordance with and is within a registered plan of subdivision; or
 - (b) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or the grantor of a use of or right in land, as the case may be, does not retain

the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment with respect to, any land abutting the land that is being conveyed or otherwise dealt with; or

- (c) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada or Her Majesty in right of Ontario or by any municipality, metropolitan municipality, regional municipality, district municipality or county; or
 - (d) the land or any use of or right therein is being acquired for the construction of a transmission line as defined in *The Ontario Energy Board Act, 1964* and in respect of which the person acquiring the land or any use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose; or
 - (e) a consent is given to convey, mortgage or charge the land, or grant, assign or exercise a power of appointment with respect to the land or enter into an agreement with respect to the land.
- (3) The council of a municipality may by by-law designate any plan of subdivision, or part thereof, that has been registered for eight years or more, which shall be deemed not to be a registered plan of subdivision for the purposes of subsection 2. Designation of plans of subdivision not deemed registered
- (4) Where land is within a plan of subdivision registered before or after the coming into force of this section, no person shall convey a part of any lot or block of the land by way of a deed or transfer, or grant, assign or exercise a power of appointment with respect to a part of any lot or block of the land, or mortgage or charge a part of any lot or block of the land, or enter into an agreement of sale and purchase of a part of any lot or block of the land or enter into any agreement that has the effect of granting the use of or right in a part of any lot or block of the land directly or by entitlement to renewal for a period of twenty-one years or more unless, Part-lot control

- (a) the grantor by deed or transfer, the person granting, assigning or exercising a power of appointment, the mortgagor or chargor, the vendor under an agreement of purchase and sale or the grantor of a use of or right in land, as the case may be, does not retain the fee or the equity of redemption in, or a power or right to grant, assign or exercise a power of appointment with respect to, any land abutting the land that is being conveyed or otherwise dealt with; or
- (b) the land or any use of or right therein is being acquired or disposed of by Her Majesty in right of Canada or Her Majesty in right of Ontario or by any municipality, metropolitan municipality, regional municipality, district municipality or county; or
- (c) the land or any use of or right therein is being acquired for the construction of a transmission line as defined in *The Ontario Energy Board Act, 1964* and in respect of which the person acquiring the land or any use of or right therein has made a declaration that it is being acquired for such purpose, which shall be conclusive evidence that it is being acquired for such purpose; or
- (d) a consent is given to convey, mortgage or charge the land or grant, assign or exercise a power of appointment with respect to the land or enter into an agreement with respect to the land.

1964, c. 74

Designation
of plans of
subdivision
not subject
to part-lot
control

- (5) Notwithstanding subsection 4, the council of a municipality may by by-law provide that subsection 4 does not apply to land that is within such registered plan or plans of subdivision or part or parts thereof as is or are designated in the by-law, and, where the by-law is approved by the Minister, subsection 4 ceases to apply to such land.

Consent to
lapse after
one year

- (6) Any consent mentioned in subsection 2 or 4 shall lapse, in the case of a consent given by the Minister, at the expiration of one year after the date upon which the consent was granted, and in the case of a consent given by the committee of adjustment or the land division committee, at the expiration of one year after the date of the certificate given under

subsection

subsection 19 of section 32*b*, unless within such period,

- (a) an agreement was entered into for the sale and purchase of the land in respect of which the consent was granted or that has the effect of granting the use of or right in land directly or by entitlement to renewal for a period of twenty-one years or more; or
- (b) the land in respect of which the consent was granted was conveyed, mortgaged or charged or a power of appointment with respect to the land was exercised,

provided that the committee of adjustment, the land division committee or the Minister, as the case may be, in granting the consent may provide for an earlier lapsing of the consent.

- (7) An agreement, conveyance, mortgage or charge made, or a power of appointment granted, assigned or exercised in contravention of this section or a predecessor thereof does not create or convey any interest in land, but this section does not affect an agreement entered into subject to the express condition contained therein that such agreement is to be effective only if the provisions of this section are complied with. Conveyance, etc., contrary to section not to create or convey interest in land
- (8) A certified copy or duplicate of every by-law passed under subsection 3 shall be lodged by the clerk of the municipality in the office of the Minister. Copy of by-law to be lodged with Minister
- (9) A by-law passed under subsection 3 is not effective until the requirements of subsections 10 and 11 have been complied with. When by-law effective
- (10) A certified copy or duplicate of every by-law passed under this section shall be registered by the clerk of the municipality in the proper registry or land titles office. Copy of by-law to be registered
- (11) The clerk of the municipality shall send by registered mail notice of the passing of a by-law under subsection 3 to each person appearing by the last revised assessment roll to be the owner of land to which the by-law applies, which notice shall be sent to the last known address of each such person. Notice of by-law to be mailed to owners of affected land

Matters to be regarded in determining consent, conditions

- (12) A committee of adjustment, a land division committee and the Minister, in determining whether a consent is to be given shall have regard to the matters that are to be had regard to under subsection 4 of section 28 and have the same powers with respect to a consent as the Minister has with respect to an approval of a plan of subdivision under subsections 5 and 8 of section 28, and shall require that all conditions imposed be fulfilled prior to the granting of a consent.

Special account

- (13) Where on the granting of a consent a condition has been imposed that land be conveyed for public purposes other than highways, any land so conveyed may be sold by the municipality at any time and subsection 10 of section 28 applies to moneys received in lieu of a conveyance of such land and to moneys received from the sale of such land.

Agreements

- (14) Every municipality may enter into agreements imposed as a condition to the granting of a consent.

R.S.O. 1960, c. 296, amended

2. *The Planning Act* is amended by adding thereto the following sections:

Appointment of land division committee

- 26a.—(1) Where one or more municipalities forming part of a county for municipal purposes, or being within a metropolitan, regional or district municipality, do not have a committee of adjustment constitute prior to the 15th day of June, 1970, the council of the county, or of the metropolitan, regional or district municipality, as the case may be, shall, upon being notified in writing of this fact by the Minister, constitute and appoint a land division committee composed of such persons, not fewer than three, as the council considers advisable.

Interpretation

- (2) In subsection 3, "employee of a municipality" includes an employee of a local board of the municipality but does not include a teacher employed by a board of education or school board.

Members and employees of county, etc., not eligible

- (3) No member of council or employee of a county or of a metropolitan, regional or district municipality and no member of council or employee of a municipality forming part of a county or of a municipality being within a metropolitan, regional or district municipality is eligible to be a member of the land division committee constituted by the council of the county or metropolitan, regional or district municipality.

- (4) The provisions of subsections 4 to 12 of section 32a and subsections 2a to 19 of section 32b apply *mutatis mutandis* to the land division committee, but the land division committee does not have jurisdiction to grant consents in respect of land situate in a municipality that has a committee of adjustment constituted prior to the 15th day of June, 1970, or constituted on or after the 15th day of June, 1970, if the municipality has an official plan approved by the Minister, unless the council of such municipality passes a by-law authorizing the land division committee to grant such consents and the time provided for in subsection 5 has elapsed, or unless the committee of adjustment is dissolved. Application of s. 32a, subss. 4-12, s. 32b, subss. 2a-19, to Committee, power to grant Consents
- (5) Where a by-law is passed under subsection 4, the clerk of the municipality shall forward by registered mail a certified copy thereof to the secretary-treasurer of the committee of adjustment, to the secretary-treasurer of the land division committee and to the Minister not later than five days after the passing of the by-law, and ten days after the passing of the by-law the land division committee has jurisdiction to grant consents in respect of land in such municipality and the committee of adjustment ceases to have jurisdiction for this purpose. Clerk to mail copy of by-law to secretary-treasurer and Minister within 5 days
- 26b.—(1) Notwithstanding any other provision in this Act, if a municipality does not have an official plan approved by the Minister or the Municipal Board on or before the 31st day of December, 1973, a committee of adjustment of such municipality shall after that date have no further jurisdiction to grant consents for the purposes of section 26 and the Minister or the land division committee, as the case may be, shall act in the place and stead of such committee for such purposes. When committee of adjustment ceases to have jurisdiction to grant consents
- (2) Notwithstanding any other provision in this Act, the Minister, if he is of the opinion that a committee of adjustment is not giving consents in the manner contemplated by the provisions of this Act, may by order declare that such committee has no further jurisdiction to give consents for the purposes of section 26, and thereafter the Minister or the land division committee, as the case may be, shall act in the place and stead of such committee for such purposes. Idem

R.S.O. 1960,
c. 296, s. 27,
subs. 1, cl. b,
re-enacted

3.—(1) Clause *b* of subsection 1 of section 27 of *The Planning Act* is repealed and the following substituted therefor:

- (b) with respect to any land in Ontario exercise the powers conferred upon councils by subsection 3 of section 26.

R.S.O. 1960,
c. 296, s. 27,
subs. 3,
re-enacted

(2) Subsection 3 of the said section 27, as amended by section 7 of *The Planning Amendment Act, 1962-63*, is repealed and the following substituted therefor:

Notice

(3) The Minister may give notice of any such order in such manner as he considers proper and the Minister shall cause a certified copy or duplicate of the order to be registered in the proper registry or land titles office.

R.S.O. 1960,
c. 296, s. 32a
(1961-62,
c. 104, s. 8),
subs. 12,
re-enacted;
subs. 13,
repealed

4. Subsections 12 and 13 of section 32a of *The Planning Act*, as enacted by section 8 of *The Planning Amendment Act, 1961-62*, are repealed and the following substituted therefor:

Rules of
procedure

(12) In addition to complying with the requirements imposed upon the committee by this Act, the committee shall comply with such rules of procedure as are prescribed by the Minister by regulation.

R.S.O. 1960,
c. 296, s. 32b,
subs. 2a
(1964, c. 90,
s. 6, subs. 1),
re-enacted

5.—(1) Subsection 2a of section 32b of *The Planning Act*, as enacted by subsection 1 of section 6 of *The Planning Amendment Act, 1964*, is repealed and the following substituted therefor:

Power of
committee
to give
consent

(2a) In addition to its powers under subsections 1 and 2 and subject to section 26a, the committee upon the application of the owner of any land or any person authorized in writing by such owner, may, notwithstanding any other Act, give a consent as mentioned in section 26, provided that the committee is satisfied that a plan of subdivision under section 28 of the land described in the application is not necessary for the proper and orderly development of the municipality.

R.S.O. 1960,
c. 296,
s. 32b,
subs. 9a, 9b
(1966,
c. 116, s. 5,
subs. 2),
repealed

(2) Subsection 9a, as re-enacted by subsection 2 of section 5 of *The Planning Amendment Act, 1966* and amended by subsection 1 of section 8 of *The Planning Amendment Act, 1967*, and subsection 9b, as enacted by subsection 2 of section 5 of *The Planning Amendment Act, 1966*, of the said section 32b are repealed.

6. *The Planning Act* is amended by adding thereto the following section: R.S.O. 1960,
c. 296,
amended

34a. The Minister may make regulations prescribing Regulations
rules of procedure for committees of adjustment and
land division committees constituted under this Act.

7. This Act comes into force on the day following the day Commence-
ment
it receives Royal Assent.

8. This Act may be cited as *The Planning Amendment Act*, Short title
1970.

